

## 2023 Missouri Legislature session overview

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*The 2023 Missouri legislative session has ended. It was a good session overall, but a lot of frustration ended up consuming the session (particularly in the senate) in the final week. With eight new senators and talk of a more productive session than last year, hopes were high that it could be a good and fruitful year in Jefferson City. Unfortunately, caucus infighting in the senate ultimately caused the derailment of several priorities this year. Some bills were waiting for one more vote in the senate to move to the governor's desk, but time ran out.*

*Over 2,300 bills were filed this session. Only 57 bills were truly agreed to and finally passed (19 of those were appropriation bills). This was another near record low of policy bills that were passed.*

*The highlights of the session include the following: \$2.8 billion to fund I-70 expansion across the entire state, 7% core funding increase for higher education institutions, \$50 million to support World Cup activities in Kansas City, \$300 million for the construction of a 200-bed mental health hospital in Kansas City, \$28.6 million for the KC South Loop Park Project, and \$37 million for Kansas City ports. The bills that failed to achieve final passage included childcare tax credits, changes to the Historic Preservation Tax Credit, changes to the initiative petition process, and sports betting.*

*As usual, bills that were consequential to the construction industry were filed. Some saw a little action, while others never made it out of committee. Those bills included subjects like prevailing wage, the A+ Program, statewide contractor certifications and licensing (mechanical), Right to Work, and workforce development.*

*Below are summaries of the top issues lawmakers debated this session and the significant issues that faced the regional construction industry.*

### The top issues in the legislature this session

#### **DID NOT PASS**

**Sports wagering:** Ever since the U.S. Supreme Court ruling in 2018 that struck down a federal prohibition on sports betting, around 30 states have adopted legislation to allow some form of wagering on sports events, including Kansas last year. Missouri doesn't want to lose out on the revenue opportunity, so legislators tried again this session to get something passed.

Representative Dan Houx (R-Warrensburg) filed [HB 556](#) (passed in the House and sat in the Senate) which imposed a 10% tax on net winnings from bets. The issue of video lottery terminals

in truck stops is the reason a bill didn't pass last year, and the issue couldn't be resolved this year either.

### **DID NOT PASS**

**Initiative petitions:** With more initiative petitions being circulated each year, legislative leadership has been determined to make it harder to place issues on the ballot to change state law and alter our state's constitution. Last year's successful petition to place recreational marijuana on the ballot, which eventually passed, was the latest catalyst to drive legislative action. That petition added 40+ pages to the state's constitution and now makes it impossible to tweak the law without a vote of the people. Several proposals were filed in both chambers this session. Representative Mike Henderson's (R-Bonne Terre) [HJR 43](#) was the bill that became the vehicle of action. Specifically, the bill required the Secretary of State to provide voters in each Congressional district with a period in which to review and comment upon all initiative petitions proposing amendments to the state Constitution. Currently, any Constitutional measure referred to the people, by initiative petition or by the General Assembly, must receive approval from a simple majority of the votes cast thereon to pass. Upon voter approval, this resolution required any such measure to receive approval from 60% of the voters to pass. The bill came within one vote in the senate of passing.

### **PASSED**

**Tax cuts:** With the state flush with cash currently, legislative leaders wanted to provide tax relief to Missourians. Representative Dirk Deaton (R-Noel) filed [HB 816](#) to lower Missouri's individual income taxes from 4.9% to 4.5%, reduce Missouri's corporate taxes from 4% to 2%, and eliminate taxes on Social Security. The proposal passed the House, but never gained any traction in the Senate. Senator Tony Luetkemeyer (R-Parkville) also filed [SB 190](#) and it became the only tax bill to make it to the governor's desk. The bill authorizes a county to grant a property tax credit to eligible taxpayers (retired) residing in such county, provided such county has adopted an ordinance authorizing such credit. It also allows the maximum deduction to all taxpayers regardless of filing status or adjusted gross income of certain retirement and Social Security benefits from the taxpayer's Missouri adjusted gross income. These changes commence on Jan. 1, 2024.

### **DID NOT PASS**

**Open enrollment:** One topic the past few sessions has centered around school choice, offering parents options on where to send their kids. This session, Representative Brad Pollitt (R-Sedalia) filed [HB 253](#). The proposal allows public school students to enroll outside their resident school district and enroll in another participating school. State and federal school dollars would follow the student. A maximum of 3% of a school population would be allowed to transfer out. The bill passed in the House, but just came up short in the Senate.

## PASSED

**Transgender youth healthcare and sports participation:** The most contentious debate this session was on this issue. [SB 49](#), filed by Senator Mike Moon (R-Ash Grove), stated that no health care provider shall perform gender transition surgeries on any minor, and until Aug. 28, 2027, no health care provider shall prescribe or administer cross-sex hormones or puberty-blocking drugs to a minor for a gender transition, unless such minor was receiving such treatment prior to Aug. 28, 2023. Senator Holly Thompson Rehder (R-Sikeston) also filed [SB 39](#), which prohibited a private school, public school district, public charter school, or public or private institution of postsecondary education from allowing any student to compete in an athletic competition that is designated for the biological sex opposite to the student's biological sex as stated on the student's official birth certificate or other government record. Both bills passed in the legislature and the governor has signed the bills.

## DID NOT PASS

**Regulatory sandbox:** Senator Denny Hoskins (R-Warrensburg) filed [SB 3](#) establishing the "Regulatory Sandbox Act," which created the Regulatory Relief Office within the Department of Economic Development. The Regulatory Relief Office would administer the provisions of the act with the purpose of identifying state laws or regulations that could potentially be waived or suspended for participating businesses during a two-year period in which the participating business demonstrates an innovative product offering to consumers. Similar legislation has been used in Utah and Arizona to help startups by waiving certain regulations initially. This bill passed in the Senate, yet just came up short in the House.

## PASSED

**Crime:** Crime has been increasing statewide, especially since the pandemic, and businesses are asking for help. Even though crime is typically a local issue, state lawmakers have stepped into the debate. St. Louis lawmakers have been the most vocal on the issue and are hoping for help in their city. Representative Lane Roberts (R-Joplin) filed [HB 301](#) which lets the governor appoint a special prosecutor to go into jurisdictions with a high crime rate. The bill targeted the St. Louis area, but it would apply statewide. This bill passed in the House yet came up short in the Senate. The bill contained several different provisions, but it also put pressure on St. Louis Prosecutor Kim Gardner to resign, which she did recently. [SB 189](#), filed by Senator Tony Luetkemeyer (R-Parkville), did pass this session. It contains numerous provisions, including expungement of records, repeals provisions relating to a mandatory salary range and age limitation for the Kansas City chief of police and mandatory salary caps for Kansas City police officers, Blair's Law for unlawful discharge of a firearm, Max's Law for assault on a law enforcement animal, a cybercrimes task force, minimum prison terms for armed criminal action, and eligibility for parole for juveniles. [SB 186](#), filed by Senator Justin Brown (R-Rolla), also passed and has numerous provisions, including EMS services, Office of Child Advocate, missing children, Missouri Rap Back Program, and public safety sales taxes.

## PASSED

**I-70:** Anyone driving on I-70 in Missouri knows we have a problem. Lawmakers have struggled immensely over the last several years to come to any agreement on changes. This year, the governor stated in his state of the state address in January that improving I-70 was a priority for the administration. \$859 million was recommended in the governor's budget to widen about 55 miles of I-70 in the Kansas City, Columbia, and St. Louis regions. Since that speech, House lawmakers talked about using that money for other smaller transportation projects. After the budget landed in the Senate, though, Appropriations Chairman Lincoln Hough (R-Springfield) took the lead on the issue and moved to include a historic \$2.8 billion to expand I-70 to three lanes across the entire state.

## PASSED

**Upskill credentialing:** Another legislative bright spot this session positively affects workforce development. A grant program for employers was created within the Department of Economic Development (DED) to assist employees in obtaining upskill credentialing. Representative Mike Henderson filed [HB 417](#) which contained this language. The bill passed both chambers and was sent to the governor for his signature on May 30. This bill allows the Department of Economic Development to disburse grants to qualifying employers for each employee or prospective employee who obtains upskill credentials, as defined in the bill. "Public body" is defined to exclude hospitals in Section 197.020, long-term care facilities licensed under Chapter 198, or public hospitals under Chapter 205. This bill establishes the "Upskill Credential Training Fund" which consists of funds appropriated by the General Assembly not to exceed \$6 million per fiscal year. No qualifying employer shall receive more than \$30,000 in any fiscal year. In order to receive such grants a qualifying employer is required to submit an application to DED as provided in the bill. Applications are evaluated on a competitive basis using the following criteria:

1. The pledged average wage increase that employees or prospective employees will realize after obtaining an upskill credential in relation to the cost of obtaining the credential.
2. The level of economic distress to the qualifying employer's region and the balance of awards made to the various regions of the state.
3. The contribution made by the qualifying employer toward the cost of obtaining the upskill credential.

At the close of each application period, to be determined by DED, applications will be evaluated and preliminary awards for reimbursement may be made. In making preliminary awards of reimbursement, the DED shall reserve 33 1/3% to award exclusively to qualifying employers with at least one but not more than 50 employees; and 33 1/3% to award exclusively to qualifying employers with at least 51 but no more than 200 employees. Any amount that is reserved and not awarded by March 1 of the fiscal year may be issued to any qualifying employer eligible for an award. Upon being given a preliminary award for reimbursement, each qualifying employer must

sponsor a current or prospective employee to obtain an upskill credential within 12 months of the preliminary award. Employees may not commence the process of obtaining the credential until after a preliminary award has been made. Upon obtaining a credential, the employer shall submit proof of the same to DED along with proof that the individual who completed the training is a Missouri resident with a verifiable Missouri address.

## **PASSED**

**ESOPs:** Employee Stock Ownership Plans (ESOPs) have been an important tool for employee retention, employee recruitment, and general business success for businesses across the country, especially those in the architecture, engineering, and construction industries. This session, Senator Mike Bernskoetter (R-Jefferson City) filed [SB 20](#). This legislation includes numerous retirement provisions in state law. It was delivered to the governor for his signature on May 30. One of the provisions reauthorized and removed the sunset for the ESOP income tax deduction. The language states that for all tax years beginning on or after Jan. 1, 2023, in addition to all other modifications allowed by law, a taxpayer shall be allowed a deduction from the taxpayer's federal adjusted gross income when determining Missouri adjusted gross income in an amount equal to fifty percent of the net capital gain from the sale or exchange of employer securities of a Missouri corporation to a qualified Missouri employee stock ownership plan if, upon completion of the transaction, the qualified Missouri employee stock ownership plan owns at least thirty percent of all outstanding employer securities issued by the Missouri corporation.

## Construction industry bills of interest

### **DID NOT PASS**

**Historic preservation program tax credits:** Over the last several years, The Builders has worked with a statewide coalition to save and then strengthen this tax credit program, which has played a significant role in sustained economic development across the state (urban and rural). Three House bills and one Senate bill were filed this year at the request of this coalition, and we were very hopeful for some of the language to pass. Representative Louis Riggs (R-Hannibal), on behalf of the coalition, filed [HB 315](#), [HB 316](#), and [HB 639](#). Senator Steven Roberts (D-St. Louis) filed [SB 721](#). Overall, the bills looked to provide helpful modifications to the current law. The changes included rebranding the program's name to the Missouri Historic, Heritage, Tourism, and Rural Revitalization Act. Additional changes encompass the definition of "projected net fiscal benefit" to also include any increased revenue from sales or property taxes, allows counties to designate certain structures as "essential community or heritage facilities," modifies the threshold at which tax credits do not count toward the aggregate limit on tax credits authorized from \$275,000 to \$300,000, and adjusts such number annually for inflation, requires allowance for a third-party review, authorizes non-profits to receive tax credits, redetermines projects that can be authorized under the \$90 million threshold, modifies the carry-back and carry-forward provisions

of the tax credits, and transfers the State Historic Preservation Office from the Department of Natural Resources to the Office of the Lieutenant Governor, among other provisions. HB 316 became the leading bill for these changes. With the filibustering in the Senate during the last week, even as this bill was at the precipice of passing, time ran out.

### **DID NOT PASS**

**Statewide mechanical contractor licensing:** As has been the case the last few sessions, the Missouri Statewide Mechanical Contractor Licensing Act was filed. This year [SB 80](#) was filed by Senator Nick Schroer (R- O'Fallon). Under this act, the statewide mechanical contractor license for mechanical contractors shall be regulated by the Division of Professional Registration, within the Department of Commerce and Insurance. This act creates the Office of Mechanical Contractors within the Division to carry out the provisions of this act. Applicants for a statewide mechanical contractor license must meet certain criteria set forth in the act. A corporation, firm, institution, organization, company, or representative seeking to engage in mechanical contracting on a residential or commercial jobsite is required to employ at least one license holder. For residential and commercial jobsites, a statewide licensed mechanical contractor may represent only one entity at a time. A mechanical contractor shall have one license holder responsible for offering field employees eight contact hours of industry training each year, and mechanical contractors shall be responsible for providing proof of such training to the Division upon request. In the event of a loss of a license holder, a mechanical contractor shall remain in good standing with the Division for six months after notifying the Division of such change. Within the six-month period, a new license holder shall be registered with the Division. If no license holder is registered within such a six-month period, the Division shall declare the mechanical contractor inactive. This act establishes the Missouri Mechanical Contractor Licensing Fund in the state treasury, which shall be expended for the administration of this act. Any individual who knowingly violates the provisions of this act is guilty of a Class B misdemeanor. This bill passed in the Senate and came very close to passing in the House.

Companion bills in the House, [HB 368](#) and [HB 1083](#), both had a hearing, but were voted down in the executive committee. HB 368 was filed by Representative Richard West (R-Wentzville) and HB 1083 was filed by Representative Phil Christofanelli (R-St. Peters). There is a good chance this language will be refiled next session.

### **DID NOT PASS**

**Contractor unpaid wages:** Representative Mike Henderson (R-Bonne Terre) filed [HB 470](#) this year. The proposed legislation basically mandated that general contractors are responsible for the unpaid wages of any subcontractors on a project. The Builders has always stated that each contractor should be responsible for only their employees. Staff testified in opposition at the hearing, along with other construction organizations, companies, and stakeholders. It was clear at the hearing that many legislators disliked this bill. Specifically, the language stated that the contractor's responsibilities on contracts entered on or after Jan. 1, 2024, for construction,

reconstruction, demolition, alteration, maintenance, or repair in Missouri, other than an owner-occupied residence, for any debt owed to an employee, or third-party, incurred by a subcontractor at any tier acting under, by, or for the contractor for the employee's performance of labor under the contract. The contractor's responsibility extends to unpaid wages plus interest owed and to penalties or liquidated damages. The bill authorized the Department of Labor and Industrial Relations (DOLIR) to institute an action against the contractor for unpaid wages. The bill included the subcontractor's obligations to provide payroll records of employees and project details. However, a subcontractor's noncompliance did not relieve the contractor of any obligation as further specified in the bill. The subcontractor had 14 days to provide the requested records or information. The subcontractor was subject to a civil penalty in an amount not to exceed \$5,000 for each day the subcontractor failed to provide the requested records or information. The provisions of the bill did not apply to work performed by an employee of the state, a special district, a city, a county, a city and county, or any political subdivision of the state. After the hearing, this bill died quickly.

### **DID NOT PASS**

**A+ Program:** In 2019, the A+ Program was expanded to, among other changes, establish a procedure for the reimbursement of the cost of tuition and fees for any dual-credit or dual-enrollment course offered to a student in high school in association with a public community college or vocational or technical school. It also provided that the student must have attended a high school in the state for at least two years (changed from three years). This expansion came with no funding that year; the plan was to apply for funding the next year. Well, the next year was 2020, the year of the pandemic, so nothing happened. In 2021, the governor announced in his state of the state address he wanted a \$13 million increase for A+ Program funding. That amount was placed in the budget that year, along with another \$5 million that Senator Lauren Arthur (D-Kansas City) secured.

This session, Representative Ann Kelley (R-Lamar) filed [HB 76](#). The proposal expanded the program. During the process, the bill was further perfected with two House amendments. Beginning with the 2024-25 academic year, this bill created the "Career-Tech Certificate (CTC) Program" and the "Career-Tech Certificate (CTC) Program Fund." This program is for students that have met the GPA, attendance, and service requirements for the A+ Program and are eligible for reimbursement of tuition, books, and fees, and are attending an approved institution of postsecondary education, as defined in the bill, for an eligible program of study or specified training program. The bill provided reimbursement for students for one certificate program or completion of a program of study or until a student had completed 150% of the time usually required to complete such a program. This bill passed in the House, had a hearing in the Senate, and then died.

Staff continues to watch for A+ Program proposals and changes. It is a good program that assists students attending vocational and technical schools that are looking at a future in the construction industry. This program is an important workforce development tool for the industry.

### **DID NOT PASS**

**Childcare:** For businesses trying to find workers, childcare and transportation are at the top of the list of issues preventing hiring. This session, Representative Brenda Shields (R-St. Joseph) filed [HB 870](#) which authorized the "Child Care Contribution Tax Credit Act," the "Employer-Provided Child Care Assistance Tax Credit Act," the "Child Care Providers Tax Credit," and the Supporting Use of Child Care for Economic Stability and Security (SUCCESS) Tax Credit. This was the main bill for childcare this session. It was a victim of the filibustering in the Senate during the last week.

Senator Lauren Arthur (D-Kansas City) also filed [SB 184](#) and [SB 509](#) to establish the same tax credits mentioned above. Childcare, especially since the pandemic, has been a critical issue for employers and The Builders has supported this effort. These two bills hardly moved and died, as well.

### **DID NOT PASS**

**Unemployment benefits:** Most every year there are bills filed to alter parts of the Employment Security law. Some are big changes, most are small. This year [SB 21](#) was filed by Senator Mike Bernskoetter (R-Jefferson City). It is legislation that proposed to alter the duration an individual can receive unemployment benefits. This exact language has been filed over the last several sessions. It has come close to passing but has not made it to the governor's desk. Specifically, the bill proposed to do the following. Under current law, the maximum duration for an individual to receive unemployment benefits is 20 weeks. This act modified the duration an individual can receive such benefits by basing it on the Missouri average unemployment rate, as follows:

20 weeks if the Missouri unemployment rate is higher than 9%.

19 weeks if the Missouri unemployment rate is higher than 8.5% but no higher than 9%.

18 weeks if the Missouri unemployment rate is higher than 8% but no higher than 8.5%.

17 weeks if the Missouri unemployment rate is higher than 7.5% but no higher than 8%.

16 weeks if the Missouri unemployment rate is higher than 7% but no higher than 7.5%.

15 weeks if the Missouri unemployment rate is higher than 6.5% but no higher than 7%.

14 weeks if the Missouri unemployment rate is higher than 6% but no higher than 6.5%.

13 weeks if the Missouri unemployment rate is higher than 5.5% but no higher than 6%.

12 weeks if the Missouri unemployment rate is higher than 5% but no higher than 5.5%.

11 weeks if the Missouri unemployment rate is higher than 4.5% but no higher than 5%.



10 weeks if the Missouri unemployment rate is higher than 4% but no higher than 4.5%.

9 weeks if the Missouri unemployment rate is higher than 3.5% but no higher than 4%.

8 weeks if the Missouri unemployment rate is at or below 3.5%.

The Builders, a chapter of the AGC is concerned that reducing the benefits by tying them to the general unemployment rate could hit construction workers harder relative to other industries.

The bill sat in the Senate on the informal calendar and never made it to the House.

### **DID NOT PASS**

**Right to Work:** Only one Right to Work bill was filed this session. It did not even get a hearing. [SB 54](#), filed by Senator Jason Bean (R-Holcomb), only applied in counties where the governing body of the county submitted a question to its qualified voters asking whether the county shall be subject to the act. If a majority of the votes were in favor of the question, the provisions of this act would have become effective in the county upon approval. The governing body was also permitted to submit a question to the voters on repealing an ordinance adopted pursuant to this act.

### **DID NOT PASS**

**Prevailing wage:** In 2018, the Missouri General Assembly passed legislation that significantly altered the state's prevailing wage law. This issue has been taken off the table since then. Bills are usually still filed each session, but leadership has left the topic alone. This year, two bills were filed. [HB 1244](#) was filed by Representative Cheri Toalson Reisch (R-Hallsville) which would repeal prevailing wage in its entirety. [HB 1342](#) was filed by Representative Sarah Unsicker (D-Shrewsbury) which would have authorized the division of labor standards and the attorney general to investigate wage complaints and bring action on behalf of aggrieved employees, with modifications to employer penalties for wage-related claims. Neither of these bills had a hearing.

As always, if you have questions about any of the pieces of legislation above, or would like us to look into a bill or issue not listed, please contact Allen Dillingham, Government Relations Director for The Builders, a chapter of the AGC, at 816.595.4121 or [adillingham@thebuildersagc.com](mailto:adillingham@thebuildersagc.com). We also encourage you to contact your elected representatives on these pieces of legislation and other issues important to you and your business.